

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACK STEPHEN PURSLEY,

Defendant.

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Case 4:18-cr-00575

DEFENDANT’S MOTION TO STRIKE EXHIBITS

JACK STEPHEN PURSLEY (“Defendant” or “Pursley”) requests this Court to strike certain exhibits from being offered for admission at trial. These exhibits were presented at the April 30–May 1, 2019 deposition of foreign witness Kerry Smith (“Smith”).

During the deposition of Smith, the Government offered the following exhibits for trial, under the guise that Smith is the custodian of records for Boston Limited and Isle of Man Financial Trust Limited (“IOMFTL”):

Exhibit 1-106, 2-7, 1-27, 2-10, 2-71, 2-27, 2-22, 2-31, 2-32, 2-33, 12-36, 12-46, 12-38, 12-7, 4-49, 12-35, 4-180, 12-5, 4-118, 12-43, 12-4, 12-41, 2-29, 12-40, 12-45, 4-110, 4-117, 1-38, 1-47, 2-75, 2-34, 1-51, 2-30, 2-35, 2-73, 1-15, 1-16, 1-25, 1-26, 2-69, 2-70, 1-13, 1-23, 1-29, 2-55, 2-77, 1-14, 2-78, 1-24, 1-28, 1-30, 2-56, 2-40, 2-42, 2-43, 2-46, 2-51, 2-60, 2-62, 2-63, 2-65, 2-67, 5-20, 5-35, 5-36, 2-68, 1-107, 1-108, 3-4, 3-5, 3-7, 3-9, 3-10, 3-11, 3-13, 3-16, 3-20, 3-23, 3-24, 1-74, 3-3, 3-13, 3-8, and 2-54.

These documents were not properly proven up under 18 U.S.C. § 3505, Foreign Records of Regularly Conducted Activity; are not self-authenticating under Rule 902(3) of the Federal Rules of Evidence; are not excluded from the rule against hearsay by Rule 803(6), Records of a

Regularly Conducted Activity; and should not be admitted because they are not trustworthy.

Smith testified that she has no access to the original documents, that she did not have the ability to compare the copies the Government offered to the originals, that she is no longer employed by either Boston Limited or IOMFTL, and that she could not testify that there were not documents missing. This Court, the Government, and Defendant have no way of verifying the documents, and no way of confirming the complete set of documents transferred to Boston Limited when it purchased part of IOMFTL's portfolio. In fact, from the Government's own statements and Smith's testimony, we know they are not complete. There is no evidence that they are copies of the originals. Smith is not a custodian of records for either company. The documents are hearsay offered without a valid exception to the Rule.

CONCLUSION

For the foregoing reasons, Pursley requests this Court grant his Motion to Strike and exclude the exhibits offered by the Government.

Respectfully submitted on May 14, 2019.

MINNS & ARNETT

/s/ Michael Louis Minns

Michael Louis Minns

State Bar No. 14184300

mike@minnslaw.com

Ashley Blair Arnett

State Bar No. 24064833

ashley@minnslaw.com

9119 S. Gessner, Suite 1

Houston, Texas 77074

Telephone: (713) 777-0772

Telecopy: (713) 777-0453

Attorneys for Jack Stephen Pursley

CERTIFICATE OF CONFERENCE

On May 13, 2019 undersigned conferred with DOJ attorney Sean Beaty, who indicated that he is opposed to this Motion.

/s/ Michael Louis Minns
Michael Louis Minns

CERTIFICATE OF SERVICE

This is to certify that on this the 14th day of May 2019, a true and correct copy of the above and foregoing instrument was served upon all counsel of record.

/s/ Ashley Blair Arnett
Ashley Blair Arnett